THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 8496 of 1996

Dated: 05-10-2005

Between:

Dikkala Krishna Rao.

..Petitioner.

And

The District Collector, Srikakulam District and another..

..Respondents.

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

–

WRIT PETITION NO : 8496 of 1996

ORDER:

Alleging that respondents are trying to dispossess him from Ac.2-78 cents in Sy.No.6/5 of Garudakhandi Village, petitioner filed this petition seeking a direction to the respondents not to dispossess him from the said land.

2. In the affidavit of the petitioner filed in support of this petition, he alleged that in W.P.No.9428 of 1995, filed by him, by the order dated 3.5.1995 he was directed to make a representation to the Mandal Revenue Officer (second respondent) within one week and the second respondent was directed to examine whether the land in his possession was acquired following the procedure prescribed by the Land Acquisition Act (for short 'the Act') or not, and if it is found that any government land is encroached by him, he should not be dispossessed without initiating proceedings under the Land Encroachment Act and without affording an opportunity of being heard, and consequently he made a representation to the second respondent, who through his memo dated 3-6-1995, informed him that his land was acquired after following the formalities prescribed under the Act, which is not correct and since his land is illegally occupied he is entitled to compensation as per the provisions of the Act.

3. The Joint Collector, in his counter-affidavit filed on behalf of respondents, alleged that Ac:2-78 cents in Sy.No.6/5 of Garudakhandi Village was acquired under the Award No.13 of 1976 dated 30-12-1996 duly following the procedure prescribed by the Act after publishing and serving notices under Sections 9 (1) & (10) of the Act on the petitioner in the manner prescribed by the Act and that petitioner attended the award enquiry on 25-11-1996 and since the petitioner refused to receive the compensation of Rs.11,234-17 Ps. awarded to him it was kept in revenue deposits. After taking possession of the land of petitioner necessary changes were also incorporated in the revenue records, and that land was assigned to weaker sections of the society and those pattas were cancelled in 1994 and the land was resumed and thereafter, fresh pattas were given to new beneficiaries for construction of houses, and that petitioner, who filed O.S.No.60 of 1977 questioning the acquisition proceedings, had filed W.P.No.9248 of 1995 after dismissal of that suit and had also filed O.S.No.29

of 1995, which is still pending and so, the petitioner, who is a habitual litigant is not entitled to any relief.

4. The fact that the land of the petitioner was acquired under the provisions of the Act is not denied and disputed by the petitioner by filing a reply affidavit. When the land of the petitioner was acquired under the provisions of the Act, question of this Court giving a direction to the respondents not to interfere with the alleged possession of the petitioner over the said land does not arise. That apart since the averments in the counter-affidavit show that petitioner questioned the acquisition proceedings in O.S.No.60 of 1977, and that that suit was dismissed and that he filed another suit in O.S.No.29 of 1995 in respect of the same proceedings, it is clear that petitioner is abusing the process of the Court.

5. Therefore, this petition deserves to be dismissed and hence is dismissed with exemplary costs of Rs.5000/-.

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05-10-2005

sj